

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3169 of 1983

Date of decision: 23-12-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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NADIAD EDUCATION SOCIETY

Versus

STATE OF GUJARAT  
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Appearance:

MR SI NANAVATI for Petitioners

Mr. B.B. Gharania for Respondent No. 1, 3

MR Mazgaonkar for Mr. SN SHELAT for Respondent No. 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/12/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

In view of the fact that both the parties are in agreement that the matter may be sent back to the Director of Higher Education for fresh consideration after giving an opportunity to the petitioners to show that after meeting expenses for gratuity for the year 1977-78 there was deficit between the expenses on pay-packets and the amount of tuition fees , and the difference would be paid in accordance with Government Resolution dated 27th July, 1977.

2. The petitioners claimed the amount of gratuity which has been paid to three of its employees named in annexure-A to the petition. It is the case of the petitioner that it is the liability of the Government and not of the institution. Reference has been made in this respect to the Government Resolution dated 7th November, 1982 wherein it has been provided that in the definition of pay-packet expenditure incurred towards payment of gratuity has been included with retrospective effect from 1-4-1972. The Government has come up with the case that during the period in question the amount of fees being much higher than the salaries, the amount is required to be paid from the funds available with the College. The petitioner's grievance is that it has no surplus fund but there was deficit, and no opportunity was given to them to explain the same. This is exactly what the respondents' counsel has admitted in the reply.

3. In the result this special civil application is dismissed with the direction to the Director of Higher Education to decide the question afresh after giving an opportunity to the petitioner to produce evidence to show that it has no surplus funds with it to pay for the liability of gratuity of the three teachers named in annexure-A. It is expected of the Director of Higher Education to decide the matter afresh as early as possible, but not later than six months from the date of receipt of certified copy of this order. Rule discharged. No order as to costs.

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